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SENATOR KAHLE: That language is already in there, yes.

SENATOR JOHNSON: Okay, and that is it. I mean, that is the only way then I take it that a local government could get money in effect back from the state is by using the refund route and that is it.

SENATOR KAHLE: That is it.

SENATOR JOHNSON: There is no other way. I do have one comment to make and that is this. I frankly don't have much difficulty with Senator Kahle's amendment. I have confidence that what he is saying is probably absolutely correct, that is I don't have much difficulty with the second part of his amendment. The first part, however, is something that has concerned me in the Revenue Committee and that is the section which would delete the words "for use in a governmental capacity". Well, Senator Kahle is suggesting that we allow a sales tax exemption, in effect, for all local governmental purposes. Now as you well know there are some activities that are conducted by local government that are not conducted in a governmental capacity but rather are conducted in a proprietary capacity, and, in effect, compete with private enterprise. When we eliminate those words "for use in a governmental capacity" we really give local government sort of a head start in its competition with private enterprise. Let me give you a couple of examples of that. In Omaha we have Peony Park. Peony Park is a private profit-making swimming pool and entertainment area. It would have to pay the sales taxes obviously on everything that is used in Peony Park including in the swimming pool. But we also have in Omaha a number of city operated swimming pools. They conceivably could be deemed to be proprietary enterprises because of not necessarily the kind of functions that government itself has to undertake. If Senator Kahle's amendment passes, at least the first part, I take it that the City of Omaha would pay no sales tax to the State of Nebraska for the purchase of items used in its swimming pools or on its golf courses, or what have you. Whereas, the private golf courses or the private swimming pools would pay the sales tax. That is about all I have.

SPEAKER MARVEL: Senator Warner.

SENATOR WARNER: Mr. President and members of the body, maybe a question of Senator Kahle first....would you.... would it be your understanding, Senator Kahle, that if this amendment number two is adopted that the provisions contained in it would also be the same procedure that